Assembly Bill No. 465

CHAPTER 468

An act to amend Sections 11100, 11100.05, 11100.1, 11104, 11104.5, 11106, and 11107.1 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 4, 2005. Filed with Secretary of State October 4, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 465, Cogdill. Controlled substances: iodine.

(1) Existing law generally provides that any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes to any person or entity in this or any other state any of a list of substances shall submit a report to the Department of Justice of all of those transactions, and shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice, as specified. Any person who does not submit a report as required, who submits a false report, or who sells, transfers, or furnishes a substance without a permit is guilty of a crime, punishable as specified.

Existing law does not include iodine or phosphorous acid in the list of substances for which a report must be provided, or a permit to conduct business required, but existing law does make it a misdemeanor for any person to sell or purchase more than 8 ounces of iodine in any 30-day period, other than tincture of iodine, any topical solution containing iodine that is equal to or less than $100, or iodine sold to specified licensed entities that sell, transfer, or furnish the iodine to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

This bill would delete the provision prohibiting the sale or purchase of 8 ounces of iodine in any 30-day period. This bill would instead add iodine, tincture of iodine, and phosphorous acid and its salts to the list of substances with respect to which transactions must be reported and for which a permit to conduct business must be obtained, except in specified circumstances. By increasing the scope of persons to whom existing crimes are applicable, this bill would impose a state-mandated local program upon local government.

(2) Existing law provides that the reporting requirement is not applicable to any manufacturer or wholesaler licensed by the California State Board of Pharmacy, or any retail distributor, such as a grocery store or drug store, that sells, transfers, or otherwise furnishes a substance to specified entities, provided the manufacturer or wholesaler submits records of any suspicious sales or transfers as determined by the Department of Justice.

This bill would provide that the reporting requirement is also not applicable to a state-licensed health care facility that administers or furnishes a substance to its patients, or to the sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1% in containers of 8 ounces or less, or any tincture of iodine not exceeding 2% in containers of one ounce or less, that is sold over the counter.

(3) Existing law provides that the permit requirement is not applicable to specified entities, including retailers and other persons, that are licensed by the California State Board of Pharmacy and also registered with the federal Drug Enforcement Agency.

This bill would remove retailers and other persons from, and add wholesale distributors to, this exemption. It would provide that the permit requirement is also not applicable to any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian; or to any state-licensed health care facility, physician, dentist, podiatrist, veterinarian, or veterinary food-animal drug retailer that administers or furnishes a substance to a patient. The bill would add an exemption from the permit requirement for the sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1% in containers of 8 ounces or less, or any tincture of iodine not exceeding 2% in containers of one ounce or less, that is sold over the counter.

(4) Existing law provides for criminal penalties to be imposed on any person or entity that engages in specified transactions relating to specified substances where the value of the goods in any transaction exceeds $100.

This bill would eliminate the element of the above offenses relating to the value of the goods involved. By eliminating an element of an existing crime, this bill would increase the number of cases that may be prosecuted, thereby increasing the local costs of prosecution and incarceration, and thus would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone.
(2) Methylamine.
(3) Ethylamine.
(4) D-lysergic acid.
(5) Ergotamine tartrate.
(6) Diethyl malonate.
(7) Malonic acid.
(8) Ethyl malonate.
(9) Barbituric acid.
(10) Piperidine.
(11) N-acetylanthranilic acid.
(12) Pyrrolidine.
(13) Phenylacetic acid.
(14) Anthranilic acid.
(15) Morpholine.
(16) Ephedrine.
(17) Pseudoephedrine.
(18) Norpseudoephedrine.
(19) Phenylpropanolamine.
(20) Propionic anhydride.
(21) Isosafrole.
(22) Safrole.
(23) Piperonal.
(24) Thionylchloride.
(25) Benzyl cyanide.
(26) Ergonovine maleate.
(27) N-methylephedrine.
(28) N-ethylephedrine.
(29) N-methylpseudoephedrine.
(30) N-ethylpseudoephedrine.
(31) Chloroephedrine.
(32) Chloropseudoephedrine.
(33) Hydriodic acid.
(34) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number (96-48-0).
(35) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol with Chemical Abstract Service number (110-63-4).
(36) Red phosphorus, including white phosphorus, hypophosphorous acid and its salts, ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite,

magnesium hypophosphite, sodium hypophosphite, and phosphorous acid and its salts.

(37) Iodine or tincture of iodine.

(38) Any of the substances listed by the Department of Justice in regulations promulgated pursuant to subdivision (b).

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to any person or business entity in this state or any other state, shall require (A) a letter of authorization from that person or business entity that includes the currently valid business license number or federal Drug Enforcement Administration (DEA) registration number, the address of the business, and a full description of how the substance is to be used, and (B) proper identification from the purchaser. The manufacturer, wholesaler, retailer, or other person or entity in this state shall retain this information in a readily available manner for three years. The requirement for a full description of how the substance is to be used does not require the person or business entity to reveal their chemical processes that are typically considered trade secrets and proprietary information.

(B) For the purposes of this paragraph, "proper identification" for in-state or out-of-state purchasers includes two or more of the following: federal tax identification number; seller's permit identification number; city or county business license number; license issued by the California Department of Health Services; registration number issued by the Federal Drug Enforcement Administration; precursor business permit number issued by the Bureau of Narcotic Enforcement of the California Department of Justice; driver's license; or other identification issued by a state.

(2) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state that exports a substance specified in subdivision (a) to any person or business entity located in a foreign country shall, on or before the date of exportation, submit to the Department of Justice a notification of that transaction, which notification shall include the name and quantity of the substance to be exported and the name, address, and, if assigned by the foreign country or subdivision thereof, business identification number of the person or business entity located in a foreign country importing the substance.

(B) The department may authorize the submission of the notification on a monthly basis with respect to repeated, regular transactions between an exporter and an importer involving a substance specified in subdivision

(a), if the department determines that a pattern of regular supply of the substance exists between the exporter and importer and that the importer has established a record of utilization of the substance for lawful purposes.

(d) (1) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes a substance specified in subdivision (a) to a person or business entity in this state or any other state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. The Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the substance or substances if the Department of Justice determines that a pattern of regular supply of the substance or substances exists between the manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes the substance or substances and the recipient of the substance or substances, and the recipient has established a record of utilization of the substance or substances for lawful purposes.

(2) The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature or otherwise identify himself or herself as a witness to the identification of the purchaser or purchasing individual, and shall, if a common carrier is used, maintain a manifest of the delivery to the purchaser for three years.

(e) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy that sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian, or a retail distributor as defined in subdivision (h), provided that the manufacturer or wholesaler submits records of any suspicious sales or transfers as determined by the Department of Justice.

(4) Any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(5) A state-licensed health care facility that administers or furnishes a substance to its patients.

(6) (A) Any sale, transfer, furnishing, or receipt of any product that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder. However, this section shall apply to preparations in solid or liquid dosage form, except pediatric liquid forms, as defined, containing

ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine where the individual transaction involves more than three packages or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine product subsequently removed from exemption pursuant to Section 814 of Title 21 of the United States Code shall similarly no longer be exempt from any state reporting or permitting requirement, unless otherwise reinstated pursuant to subdivision (d) or (e) of Section 814 of Title 21 of the United States Code as an exempt product.

(7) The sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1 percent in containers of eight ounces or less, or any tincture of iodine not exceeding 2 percent in containers of one ounce or less, that is sold over the counter.

(8) Any transfer of a substance specified in subdivision (a) for purposes of lawful disposal as waste.

(f) (1) Any person specified in subdivision (a) or (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars ($5,000), or by both the fine and imprisonment.

(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

(g) (1) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any manufacturer, wholesaler, retailer, or other person to sell, transfer, or otherwise furnish a substance specified in subdivision (a) to a person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal

Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment.

(h) For the purposes of this article, the following terms have the following meanings:

(1) "Drug store" is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) "General merchandise store" is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) "Grocery store" is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) "Pediatric liquid" means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) "Retail distributor" means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. "Retail distributor" includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) "Sale for personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). "Sale for personal use" also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

SEC. 2. Section 11100.05 of the Health and Safety Code is amended to read:

11100.05. (a) In addition to any fine or imprisonment imposed under subdivision (f) of Section 11100 or subdivision (j) of Section 11106 of the Health and Safety Code, the following drug cleanup fine shall be imposed:

(1) Ten thousand dollars ($10,000) for violations described in paragraph (1) of subdivision (f) of Section 11100.

(2) One hundred thousand dollars ($100,000) for violations described in paragraph (2) of subdivision (f) of Section 11100.

(3) Ten thousand dollars ($10,000) for violations described in subdivision (j) of Section 11106.

(b) At least once a month, all fines collected under this section shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

SEC. 3. Section 11100.1 of the Health and Safety Code is amended to read:

11100.1. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that obtains from a source outside of this state any substance specified in subdivision (a) of Section 11100 shall submit a report of that transaction to the Department of Justice 21 days in advance of obtaining the substance. However, the Department of Justice may authorize the submission of reports within 72 hours, or within a timeframe and in a manner acceptable to the Department of Justice, after the actual physical obtaining of a specified substance with respect to repeated transactions between a furnisher and an obtainer involving the substances, if the Department of Justice determines that the obtainer has established a record of utilization of the substances for lawful purposes. This section does not apply to any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164; any manufacturer or wholesaler who is licensed by the California State Board of Pharmacy and also registered with the federal Drug Enforcement Administration of the United States Department of Justice; any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice; or any state-licensed health care facility.

(b) (1) Any person specified in subdivision (a) who does not submit a report as required by that subdivision shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars ($5,000), or by both that fine and imprisonment.

(2) Any person specified in subdivision (a) who has been previously convicted of a violation of subdivision (a) who subsequently does not submit a report as required by subdivision (a) shall be punished by

imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars ($100,000), or by both that fine and imprisonment.

SEC. 4. Section 11104 of the Health and Safety Code is amended to read:

11104. (a) Any manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes any of the substances listed in subdivision (a) of Section 11100 with knowledge or the intent that the recipient will use the substance to unlawfully manufacture a controlled substance is guilty of a felony.

(b) Any manufacturer, wholesaler, retailer, or other person or entity that sells, transfers, or otherwise furnishes any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in Section 11107.1, with knowledge that the recipient will use the goods or chemical substance to unlawfully manufacture a controlled substance, is guilty of a misdemeanor.

(c) Any person who receives or distributes any substance listed in subdivision (a) of Section 11100, or any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in Section 11107.1, with the intent of causing the evasion of the recordkeeping or reporting requirements of this article, is guilty of a misdemeanor.

SEC. 5. Section 11104.5 of the Health and Safety Code is amended to read:

11104.5. Any person who knowingly or intentionally possesses any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, or any chemical substance specified in paragraph (36) or (37) of subdivision (a) of Section 11100, Section 11107, or Section 11107.1, with the intent to manufacture a controlled substance, is guilty of a misdemeanor.

SEC. 6. Section 11106 of the Health and Safety Code is amended to read:

11106. (a) (1) (A) Any manufacturer, wholesaler, retailer, or any other person or entity in this state that sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person or business entity in this state or any other state or who obtains from a source outside of the state any substance specified in subdivision (a) of Section 11100 shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. For any substance added to the list set forth in subdivision (a) of Section 11100 on or after January 1, 2002, the Department of Justice may postpone the effective date of the requirement for a permit for a period not to exceed six months from the listing date of the substance.

(B) An intracompany transfer does not require a permit if the transferor is a permittee. Transfers between company partners or between a company and an analytical laboratory do not require a permit if the transferor is a

permittee and a report as to the nature and extent of the transfer is made to the Department of Justice pursuant to Section 11100 or 11100.1.

(C) This paragraph shall not apply to any manufacturer, wholesaler, or wholesale distributor who is licensed by the California State Board of Pharmacy and also registered with the federal Drug Enforcement Administration of the United States Department of Justice; any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian; any state-licensed health care facility, physician, dentist, podiatrist, veterinarian, or veterinary food-animal drug retailer licensed by the California State Board of Pharmacy that administers or furnishes a substance to a patient; or any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(D) This paragraph shall not apply to the sale, transfer, furnishing, or receipt of any betadine or povidone solution with an iodine content not exceeding 1 percent in containers of eight ounces or less, or any tincture of iodine not exceeding 2 percent in containers of one ounce or less, that is sold over the counter.

(2) Except as provided in paragraph (3), no permit shall be required of any manufacturer, wholesaler, retailer, or other person or entity for the sale, transfer, furnishing, or obtaining of any product which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.

(3) A permit shall be required for the sale, transfer, furnishing, or obtaining of preparations in solid or liquid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, unless (A) the transaction involves the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products by retail distributors as defined by this article over the counter and without a prescription, or (B) the transaction is made by a person or business entity exempted from the permitting requirements of this subdivision under paragraph (1).

(b) (1) The department shall provide application forms, which are to be completed under penalty of perjury, in order to obtain information relating to the identity of any applicant applying for a permit, including, but not limited to, the business name of the applicant or the individual name, and if a corporate entity, the names of its board of directors, the business in which the applicant is engaged, the business address of the applicant, a full description of any substance to be sold, transferred, or otherwise furnished or to be obtained, the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100, the training, experience, or education relating to this use, and any additional information requested by the department relating to possible grounds for

denial as set forth in this section, or by applicable regulations adopted by the department.

(2) The requirement for the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100 does not require applicants or permittees to reveal their chemical processes that are typically considered trade secrets and proprietary business information.

(c) Applicants and permittees shall authorize the department, or any of its duly authorized representatives, as a condition of being permitted, to make any examination of the books and records of any applicant, permittee, or other person, or visit and inspect the business premises of any applicant or permittee during normal business hours, as deemed necessary to enforce this chapter.

(d) An application may be denied, or a permit may be revoked or suspended, for reasons which include, but are not limited to, the following:

(1) Materially falsifying an application for a permit or an application for the renewal of a permit.

(2) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for any substance listed under subdivision (a) of Section 11100, is or has been convicted of a misdemeanor or felony relating to any of the substances listed under subdivision (a) of Section 11100, any misdemeanor drug-related offense, or any felony under the laws of this state or the United States.

(3) Failure to maintain effective controls against the diversion of precursors to unauthorized persons or entities.

(4) Failure to comply with this article or any regulations of the department adopted thereunder.

(5) Failure to provide the department, or any duly authorized federal or state official, with access to any place for which a permit has been issued, or for which an application for a permit has been submitted, in the course of conducting a site investigation, inspection, or audit; or failure to promptly produce for the official conducting the site investigation, inspection, or audit any book, record, or document requested by the official.

(6) Failure to provide adequate documentation of a legitimate business purpose involving the applicant’s or permittee’s use of any substance listed in subdivision (a) of Section 11100.

(7) Commission of any act which would demonstrate actual or potential unfitness to hold a permit in light of the public safety and welfare, which act is substantially related to the qualifications, functions, or duties of a permitholder.

(8) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for any substance listed under subdivision (a) of Section 11100, willfully violates or has been convicted of violating, any federal, state, or local criminal statute, rule, or ordinance regulating the manufacture,

maintenance, disposal, sale, transfer, or furnishing of any of those substances.

(e) Notwithstanding any other provision of law, an investigation of an individual applicant's qualifications, or the qualifications of an applicant's owner, manager, agent, representative, or employee who has direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for a permit may include review of his or her summary criminal history information pursuant to Sections 11105 and 13300 of the Penal Code, including, but not limited to, records of convictions, regardless of whether those convictions have been expunged pursuant to Section 1203.4 of the Penal Code, and any arrests pending adjudication.

(f) The department may retain jurisdiction of a canceled or expired permit in order to proceed with any investigation or disciplinary action relating to a permittee.

(g) The department may grant permits on forms prescribed by it, which shall be effective for not more than one year from the date of issuance and which shall not be transferable. Applications and permits shall be uniform throughout the state, on forms prescribed by the department.

(h) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department which shall not exceed the application processing costs of the department.

(i) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, following the timely filing of a complete renewal application with all supporting documents, the payment of a permit renewal fee not to exceed the application processing costs of the department, and a review of the application by the department.

(j) Selling, transferring, or otherwise furnishing or obtaining any substance specified in subdivision (a) of Section 11100 without a permit is a misdemeanor or a felony.

(k) (1) No person under 18 years of age shall be eligible for a permit under this section.

(2) No business for which a permit has been issued shall employ a person under 18 years of age in the capacity of a manager, agent, or representative.

(*l*) (1) An applicant, or an applicant's employees who have direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for an initial permit shall submit with the application one set of 10-print fingerprints for each individual acting in the capacity of an owner, manager, agent, or representative for the applicant, unless the applicant's employees are exempted from this requirement by the Department of Justice. These exemptions may only be obtained upon the written request of the applicant.

(2) In the event of subsequent changes in ownership, management, or employment, the permittee shall notify the department in writing within 15 calendar days of the changes, and shall submit one set of 10-print fingerprints for each individual not previously fingerprinted under this section.

SEC. 7. Section 11107.1 of the Health and Safety Code is amended to read:

11107.1. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells to any person or entity in this state or any other state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric chloride, sodium metal, lead acetate, palladium black, hydrogen chloride gas, trichlorofluoromethane (fluorotrichloromethane), dichlorodifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane), sodium acetate, or acetic anhydride shall do the following:

(1) (A) Notwithstanding any other provision of law, in any face-to-face or will-call sale, the seller shall prepare a bill of sale which identifies the date of sale, cost of sale, method of payment, the specific items and quantities purchased and the proper purchaser identification information, all of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

(B) For the purposes of this paragraph, "proper purchaser identification" includes a valid driver's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, the Environmental Protection Agency certification number or resale tax identification number assigned to the individual or business entity for which the individual is purchasing any chlorofluorocarbon product, and the signature of the purchaser.

(C) The seller shall retain the original bill of sale containing the purchaser identification information for five years in a readily presentable manner, and present the bill of sale containing the purchaser identification information upon demand by any law enforcement officer or authorized representative of the Attorney General. Copies of these bills of sale obtained by representatives of the Attorney General shall be maintained by the Department of Justice for a period of not less than five years.

(2) (A) Notwithstanding any other law, in all sales other than face-to-face or will-call sales the seller shall maintain for a period of five years the following sales information: the name and address of the purchaser, date of sale, product description, cost of product, method of payment, method of delivery, delivery address, and valid identifying information.

(B) For the purposes of this paragraph, "valid identifying information" includes two or more of the following: federal tax identification number; resale tax identification number; city or county business license number; license issued by the State Department of Health Services; registration number issued by the federal Drug Enforcement Administration; precursor

business permit number issued by the Bureau of Narcotic Enforcement of the Department of Justice; driver's license; or other identification issued by a state.

(C) The seller shall, upon the request of any law enforcement officer or any authorized representative of the Attorney General, produce a report or record of sale containing the information in a readily presentable manner.

(D) If a common carrier is used, the seller shall maintain a manifest regarding the delivery in a readily presentable manner for a period of five years.

(b) Any manufacturer, wholesaler, retailer, or other person or entity in this state that purchases any item listed in subdivision (a) of Section 11107.1 shall do the following:

(1) Provide on the record of purchase information on the source of the items purchased, the date of purchase, a description of the specific items, the quantities of each item purchased, and the cost of the items purchased.

(2) Retain the record of purchase for three years in a readily presentable manner and present the record of purchase upon demand to any law enforcement officer or authorized representative of the Attorney General.

(c) (1) A first violation of this section is a misdemeanor.

(2) Any person who has previously been convicted of a violation of this section shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars ($100,000), or both the fine and imprisonment.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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